

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

BRIAN RUSSELL LOCKE,
Petitioner,

v.

Case No. 11cv296

WILLIAM POLLARD,
Respondent.

ORDER

Petitioner Brian Russell Locke previously made a motion to proceed in forma pauperis in this action. However, he was barred from doing so by 28 U.S.C. § 1915(g) for accruing three strikes for filing and appealing frivolous claims and because the Seventh Circuit later sanctioned him by directing the clerks of all federal courts in this circuit to return unfiled all of his filings. Locke v. Frank, et al., Case No. 08-1278 at 2 (7th Cir. May 22, 2008). I denied the motion after determining that petitioner had mislabeled this action as a habeas action in a failed attempt to avoid these filing restrictions. Petitioner now submits a letter, which I construe as a motion to reconsider, stating that he cannot pay the filing fee, that the sanctions were erroneous, and that this is in fact a petition for habeas corpus pursuant to 28 U.S.C. § 2254.

As I previously explained, this is not a properly filed habeas petition because petitioner does not challenge the fact or duration of his confinement. Instead he is seeking damages and an order instructing state officials to provide him with legal loans so that he can request permission from the court of appeals to file a second or successive habeas petition. This is a civil rights action to which § 1915(g) applies. Further, to the extent

petitioner seeks to collaterally attack the sanctions imposed upon him, this Court has no jurisdiction to review or modify the orders of the court of appeals.

I previously warned petitioner that failure to pay the \$5 filing fee will result in dismissal of the case. Having failed to do so,

IT IS ORDERED that this case is **DISMISSED WITHOUT PREJUDICE**.

Dated at Milwaukee, Wisconsin this 19th day of May 2011.

/s _____
LYNN ADELMAN
District Judge